

ORDINANCE _____

AN ORDINANCE relating to commute trip reduction, adopting a revised Commute Trip Reduction Plan ("CTR"), amending various sections of Seattle Municipal Code chapter 25.02, Seattle's Commute Trip Reduction Ordinance, amending Section 3.02.125 and repealing Section 25.02.060.

WHEREAS, the Washington State Clean Air Act, codified at RCW 70.94.521-.551, requires certain local governments in those counties experiencing the greatest automobile-related air pollution and traffic congestion to adopt and implement CTR plans and ordinances to reduce single-occupancy vehicle trips; and

WHEREAS, the City of Seattle recognizes the importance of increasing individual citizens' awareness of air quality, energy consumption, traffic congestion, and the contribution that employers and individuals can make towards addressing these issues; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The 2008 City of Seattle Commute Trip Reduction (CTR) Basic Plan, attached as Attachment A, is adopted as the City's Commute Trip Reduction Plan.

Section 2. Section 25.02.030 of the Seattle Municipal Code, which was last amended by Ordinance 119056, is amended as follows:

25.02.030 Definitions.

The following definitions apply throughout this chapter:

A. "Affected employee" means a full-time employee who begins his or her regular work day at an affected employer's worksite between six (6:00) a.m. and nine (9:00) a.m. (inclusive) on two (2) or more weekdays for at least twelve continuous months, who is not an independent contractor, and who is scheduled to be employed on a continuous basis for fifty-two weeks for an average of at least thirty-five hours per week.

B. "Affected employer" means a private or public employer, including government agencies, that employs one hundred (100) or more affected employees at a single worksite. This is equivalent to the term "major employer" used in RCW 70.94.521 through 70.94.551.

1 C. "Alternative mode" means a method of commuting to work other than a single-occupant
2 motor vehicle being the dominant mode, and may include telecommuting and compressed workweeks if
3 those methods result in fewer commute trips.

4 D. "Base year" means the twelve-month period on which commute trip reduction goals are
5 based and commencing when an affected employer becomes subject to the requirements of this chapter.

6 E. "Commute trips" means trips made from an employee's residence to a worksite during the
7 peak period of six (6:00) a.m. to nine (9:00) a.m. on weekdays.

8 F. "CTR plan" means the 2008 City of Seattle Commute Trip Reduction Basic Plan adopted
9 by ordinance.

10 G. "CTR program" means a document, approved by the Director pursuant to RCW
11 70.94.531 and Section 25.02.040, 25.02.055 or 25.02.065, containing an employer's strategy to reduce
12 affected employees' SOV use and VMT per employee.

13 H. "Department" means the Seattle Department of Transportation.

14 I. "Director" means the Director of the Seattle Department of Transportation.

15 J. "Dominant mode" means the mode of travel used for the greatest distance of a commute
16 trip.

17 K. "Equivalent survey information" means information that substitutes for the Washington
18 State Department of Transportation goal measurement survey, as determined by the City.

19 L. "Full-time employee" means an employee, scheduled to be employed on a continuous
20 basis for fifty-two (52) weeks for an average of at least thirty-five (35) hours per week.

21 M. "Goal" means the measure of reduction in either the percentage of SOV trips or VMT
22 that would result in an affected employer or worksite meeting the SOV or VMT "Target."

23 N. "Good faith effort" means that an employer has met the minimum requirements identified
24 in RCW 70.94.534(2). Regardless of whether an employer has met its SOV or VMT goals, the Director

shall consider the employer to be making a good faith effort if it complies with RCW 70.94.534(2) and works collaboratively with the City, in accordance with the requirements of this chapter, to: (i) continue its existing CTR program; or (ii) develop and implement an initial or revised CTR program consistent with the requirements of this chapter.

O. "Growth and Transportation Efficiency Center (GTEC)" means a defined, compact, mixed-use urban area that contains jobs or housing and supports multiple modes of transportation.

P. "Mode" means the type of transportation used by employees, such as single-occupant vehicle, rideshare, bicycle, walk, ferry, and transit.

Q. "Proportion of SOV trips" or "SOV rate" means the number of commute trips made by single-occupant vehicles

R. "Single-occupant vehicle (SOV)" means a motor vehicle, including a motorcycle, occupied by one person for commute purposes.

S. "Target" means a quantifiable or measurable value that is expressed as a desired level of performance, against which actual achievement can be compared in order to assess progress.

T. "Vehicle miles traveled (VMT) per employee" means the sum of the individual vehicle commute trip lengths, in miles, made by affected employees over a set period divided by the number of affected employees during that period.

U. "Worksite" means a building or group of buildings on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way.

Section 3. A new Section 25.02.035 of the Seattle Municipal Code is adopted to read as follows: **25.02.035 Applicability.**

A. General Rule. The provisions of this chapter apply to all affected employers within the City of Seattle. Construction worksites, when the expected duration of the construction project is less

1 than two (2) years, are excluded. It is the responsibility of the employer to notify the Seattle Department
2 of Transportation (Department) of a change in status pursuant to subsection B of this section.

3 B. Change in Status.

4 1. From Affected to Unaffected Employer. If a previously affected employer no
5 longer employs one hundred (100) or more affected employees and expects not to employ one hundred
6 (100) or more affected employees for the next twelve (12) months, the City shall consider that employer
7 no longer to be an affected employer beginning thirty (30) days after the employer provides written
8 notice to the Department of its change in status.

9 a. If the same employer returns to the level of one hundred (100) or more
10 affected employees within the same twelve (12) month period, that employer will be considered an
11 affected employer for the entire twelve (12) month period and will be subject to the same program
12 requirements as other affected employers.

13 b. If the same employer returns to the level of one hundred (100) or more
14 affected employees more than twelve (12) months after changing from an affected employer to an
15 unaffected employer, that employer shall be considered an affected employer beginning thirty (30) days
16 after its return to affected status or January 1 of the following calendar year, whichever is earlier.

17 2. From Unaffected Employer to Affected Employer. An employer meeting the
18 definition of "affected employer" shall provide written notification to the City within 30 days of either
19 moving within the City boundaries or growing in employment at a worksite to one hundred (100) or
20 more affected employees.

21 C. Multi-Jurisdictional Worksites. An affected employer that has a work site located in both
22 the City of Seattle and another incorporated or unincorporated jurisdiction with common borders or
23 related regional issues may jointly, with one of those jurisdictions, petition the Department in writing at
24 least sixty (60) calendar days prior to submittal of the affected employer's CTR program description or

report to request that the affected employer be allowed to report to, and be governed by, the applicable commute trip reduction laws and regulations of the other jurisdiction. If such request is granted, the approval to report to and be governed by the applicable commute trip reduction laws and regulations of the other jurisdiction remains in effect so long as the Department receives copies of the affected employer's CTR program and reports submitted to the other jurisdiction and of any administrative decisions or actions taken by the jurisdiction or its agents in regard to the affected employer.

D. Growth and Transportation Efficiency Centers. Affected employers located within a designated growth and transportation efficiency center (GTEC) are subject to the requirements of this chapter, except where otherwise provided by administrative rule adopted pursuant to Section 25.02.100

B.

Section 4. Section 25.02.040 of the Seattle Municipal Code, which was last amended by Ordinance 119056, is amended as follows:

25.02.040 Employer's baseline measurement and initial commute trip reduction program.

A. Baseline Measurement. An affected employer shall complete a baseline survey of employee commuting patterns in accordance with the requirements of this subsection.

1. Preparation Deadline.

a. After becoming an affected employer, an affected employer that has not adopted an approved CTR program shall conduct its baseline measurements on or before the later of the following dates:

- i. ninety (90) days after the effective date of the ordinance introduced as Council Bill , if the employer is an affected employer on that date; or
- ii. ninety (90) days after issuance of the affected employer's business license, or renewal thereof, if the employer becomes an affected employer after the effective date of the ordinance.

b. An affected employer may request an extension of up to one hundred eighty (180) days. The Director shall grant all or part of the extension request or shall deny the request within ten (10) days of receipt a written request for extension. If the Director fails to respond within ten days, the extension is automatically granted for thirty (30) calendar days.

2. Contents of Baseline Measurement. An affected employer's baseline measurement shall consist of survey data of affected employee commuting patterns, which shall be the primary source of data for measuring CTR program performance and will be used in developing the employer's CTR program. The survey methodology used by the affected employer, including but not limited to sample size and response rates, shall conform to the guidelines and methodology approved by the Washington State Department of Transportation pursuant to RCW 70.94.537(2)(b) and the Washington Administrative Code, Chapter 468-63. The Director will provide sample surveys for affected employers to use and will work collaboratively with affected employers to complete and process the surveys.

B. Initial CTR Program Submittal

1. Timing of CTR Program Submittal. An affected employer (~~((must))~~)shall submit ~~((a))~~its initial CTR program to the Director for review no later than ninety (90) days after completing its baseline measurement pursuant to subsection A of this section.

2. Extension. An affected employer may request an extension of up to ninety (90) days for submitting its initial CTR program. The Director shall grant all or part of the extension request or shall deny the request within ten (10) days of receipt of the written request. If the director fails to respond within ten days, the extension is automatically granted for thirty (30) calendar days. An extension will not excuse affected employers from developing a commute trip reduction program and submitting a description of that program to the Director for review not more than ninety days after the affected employer receives the results of the baseline measurement.

3. If the Director rejects an affected employer's initial CTR program, the affected employer shall make the changes required by a Director's decision made pursuant to this section and resubmit its initial CTR program within thirty (30) days after receiving the Director's decision.

C. Initial CTR Program Content. Each employer CTR program shall include the following:

1. Worksite Characteristics. A CTR program shall include a description of worksite characteristics, including the total number of employees and number of affected employees at the worksite, transportation characteristics and surrounding services, and any unique conditions that may affect employee commute choices

2. Mandatory CTR Program Elements. An affected employer's CTR program shall specify at least two (2) of the following measures to be implemented by the affected employer:

a. Provide bicycle parking facilities and/or lockers, changing areas, and showers for employees who walk or bicycle to work.

b. Provide commuter ride-matching services to facilitate employee ride-sharing for commute trips.

c. Provide subsidies for transit fares.

d. Provide employer vans or third-party vans for vanpooling.

e. Provide subsidy for carpool and vanpool participation.

f. Permit the use of the employer's vehicles for carpool and/or vanpool commute trips.

g. Permit alternative work schedules, such as a compressed workweek that reduce commute trips by affected employees between six (6:00) a.m. and nine (9:00) a.m. A compressed workweek regularly allows a full-time employee to eliminate at least one (1) workday every

two (2) weeks, by working longer hours during the remaining days, resulting in fewer commute trips by the employee.

h. Permit alternative work schedules such as flex-time that reduce commute trips by affected employees between six (6:00) a.m. and nine (9:00) a.m. Flex-time allows individual employees some flexibility in choosing the time, but not the number, of their working hours.

i. Provide preferential parking for high-occupancy vehicles.

j. Provide reduced parking charges for high-occupancy vehicles.

k. Collaborate with transportation providers to provide additional regular or express service to the work site (e.g., a custom bus service arranged specifically to transport employees to work) ((7)).

l. Construct special loading and unloading facilities for transit, carpool and/or vanpool users.

m. Provide and fund a program of parking incentives such as a cash payment for employees who do not use the parking facilities.

n. Institute or increase parking charges for SOVs.

o. Establish a program to permit employees to telecommute either part- or full-time, where telecommuting is an arrangement that permits an employee to work from home, eliminating a commute trip, or to work from a work center closer to home, reducing the distance traveled in a commute trip by at least half.

p. Provide a shuttle between the employer's worksite and the closest park-and-ride lot, transit center, or principal transit street

q. Attend at least four meetings of a local transportation management association, transportation management organization, or employer transportation network group each year.

1 r. Implement other measures designed and demonstrated to facilitate the use
2 of non-SOV commute modes or to reduce vehicle miles traveled that are agreed upon between the
3 Director and the affected employer.

4 3. CTR Implementation Plan. An affected employer's CTR program shall provide
5 for:

6 a. Distribution of the CTR program to affected employees at least twice a
7 year and to each new affected employee when the new affected employee begins employment.

8 b. Designation of an employee transportation coordinator to administer the
9 CTR program and to act as a liaison to the Director for one or more worksites of an affected employer.
10 The coordinator's and/or designee's name, location and telephone number must be displayed prominently
11 at each worksite.

12 c. Appropriate resources to carry out the CTR program.

13 d. Retention of all records related to the affected employer's CTR
14 compliance for at least twenty-four (24) months.

15
16 D. Initial CTR Program Review and Approval.

17 1. Director's Decision.

18 a. Within ninety (90) days of the date an affected employer submits its initial CTR
19 program the Director shall issue a written decision approving or rejecting the program based on the
20 standards in this subsection and mail a copy of the decision to the affected employer.

21 b. If the Director approves an affected employer's initial CTR program, the
22 Director's decision shall establish a date by which the affected employer is required to submit
23 subsequent regular program reports pursuant to Section 25.02.050. The regular program reporting date
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shall be no sooner than one-year and ninety (90) days from the date of the Director's decision approving the initial CTR program.

c. If the Director rejects an employer's initial CTR program, the Director's decision shall explain the reasons for the rejection and set forth changes that are required to obtain approval.

2. Review Standards. An affected employer's CTR program shall be approved if the program:

- a. satisfies the minimum requirements of this chapter; and
- b. is likely to achieve the commute trip reduction goals applicable to the affected employer under the City's CTR plan.

E. Initial CTR Program Implementation. An affected employer shall begin implementing its approved CTR program no later than ninety (90) days after the program is approved pursuant to subsection D of this section.

F. CTR Program Amendment. An affected employer may not alter or amend its approved CTR program without the express written approval of the Director.

Section 5. Section 25.02.050 of the Seattle Municipal Code, which was last amended by Ordinance 119056, is amended as follows:

25.02.050 Regular Program Reports and Biennial Surveys.

A. Program Reports.

1. Submittal.

a. Except as otherwise provided by this chapter, ((A)) an affected employer that has an approved CTR program shall submit regular ((an annual)) CTR program reports to the

Director in a format and on dates established by the Director and consistent with the guidelines established by the State CTR Board.

b. Pursuant to this section, an affected employer may request a thirty (30) day extension to complete its program report, provided the grant of an extension does not change the normal reporting date for subsequent years.

c. If the Director rejects an affected employer's program report on the grounds that it fails to include the required information, the affected employer shall submit a revised report pursuant to this section.

2. Contents. The program report shall include a review of employee commuting patterns and of progress and good faith efforts toward meeting the reduction goals and targets established for the worksite. The program report shall include each of the following elements:

a. Review of CTR Program Elements. A description of each CTR program element that was carried out during the reporting period.

b. Number of Participants. The number of employees participating in each of the CTR program elements.

c. Summary of Program Distribution. A description of the method and frequency by which the information required by the approved CTR program was distributed.

3. Review and Approval.

a. Director's Decision. Within ninety (90) days of the date an affected employer submits its program report, the Director shall issue a written decision approving or rejecting the report based on the standards of this section and shall mail a copy of the decision to the affected employer.

b. Review Standards.

(i) If the program report satisfies the requirements of this section and the affected employer has satisfied either or both of its SOV and VMT reduction goals, the report will be approved and no revisions to the affected employer's CTR program will be required.

(ii) If the program report satisfies the requirements in this section but the affected employer satisfies neither its SOV nor its VMT reduction goals, the report will be approved, but the affected employer shall submit a revised CTR program pursuant to Section 25.02.055.

(iii) If the program report fails to satisfy the requirements of this section, the report will be rejected and the affected employer shall submit a revised program report within thirty (30) days. A revised report is subject to the requirements of this section.

B. Biannual Survey of Employees' Commuting Behavior.

1. At two year intervals, an affected employer shall measure employee commuting behavior at the affected employer's worksite consistent with the guidelines and methodology approved by the Washington State Department of Transportation as required by RCW 70.94.537(2)(b) and Chapter 468-63 of the Washington Administrative Code.

2. The most recent survey data will be the primary source of data for measuring an affected employer's progress towards meeting CTR plan goals and determining an employer's compliance with the requirements of this chapter.

Section 6. A new Section 25.02.055 is adopted to read as follows:

25.02.055 Affected Employer's revised CTR program.

A. Submittal of Revised CTR Program. An affected employer shall submit a revised CTR program if, based on a review of the affected employer's program report or most recent biannual survey results pursuant to Section 25.02.050, the Director finds that the employer has not met either its VMT or SOV reduction goals.

1 1. Submittal Deadline.

2 a. If the Director's decision finds that an affected employer has made a good
3 faith effort, the affected employer shall submit a revised CTR program by a date agreed to in writing
4 between the affected employer and the Director.

5 b. If the Director's decision finds that an employer has failed to make a good
6 faith effort, the affected employer shall submit a revised CTR program within thirty (30) days following
7 receipt of the Director's decision.

8 2. Collaborative Process for Developing Revisions. The Director will work
9 collaboratively with an affected employer to reach agreement on program revisions prior to the
10 applicable deadline for submitting a revised CTR program under this section. The Director may grant
11 one or more thirty (30) day extensions if the affected employer demonstrates progress in developing
12 revisions to its CTR program.

13 B. Contents of Revised CTR Program. An affected employer's revised CTR program shall
14 include all of the elements required for CTR programs under Section 25.02.040, in addition to changes
15 or modifications to the CTR program that are reasonably likely to achieve the SOV and VMT reduction
16 goals applicable to the affected employer under the City's CTR plan.

17 C. Review and Approval of Revised CTR Program.

18 1. Director's Decision.

19 a. Within ninety (90) days of the date an affected employer submits its
20 revised CTR program, the Director will issue a written decision approving or rejecting the program
21 based on the review standards in this section and will mail a copy of the decision to the affected
22 employer.

23 b. If the Director approves an affected employer's revised CTR program, the
24 Director's decision shall establish a date by which the affected employer is required to submit

subsequent program reports pursuant to Section 25.02.050. The program reporting date shall be no sooner than one-year and ninety (90) days from the date of the Director's decision approving the revised CTR program.

c. If the Director rejects an affected employer's revised CTR program, the Director's decision shall explain the reasons for the rejection and set forth additional program revisions that are required to obtain approval. The affected employer shall resubmit a revised CTR program plan addressing the Director's concerns within 30 days from the date of the Director's decision rejecting the revised CTR program.

2. Review Standards. Revisions proposed by an affected employer to its CTR program will be approved if they are reasonably likely to achieve the commute trip reduction goals applicable to the affected employer under the City's CTR plan, considering the following factors:

a. The extent to which the affected employer has implemented its existing CTR program and attained its CTR goals.

b. The extent to which the affected employer has demonstrated a commitment to implementing the proposed revisions to its CTR program and to achieving its VMT and SOV reduction goals.

c. The diversity of modes and strategies included in the revised CTR program.

d. The viability of pedestrian, bicycle, transit, ferry, road, and high occupancy vehicle facilities and the accessibility of such facilities to the affected employer's worksite.

e. The expected benefit to be derived from specific program revisions, as well as the effect of those revisions on the entire program.

f. The likely effect of proposed program revisions on the cost and convenience of commuting by non-SOV as opposed to SOV modes of transportation.

1 **Section 7.** A new Section 25.02.065 is adopted to read as follows:

2 **25.02.065 Transportation management associations.**

3 A. Submittal of CTR Documents by Transportation Management Associations. In lieu of
4 submitting a CTR program pursuant to Section 25.02.040, a program report pursuant to Section
5 25.02.050, or a revised CTR program pursuant to Section 25.02.055, an affected employer may appoint
6 as its agent a transportation management association (TMA) or other transportation-related organization
7 authorized under RCW 35.87A.010 that submits a single program report or revised program on behalf of
8 its members. If an affected employer elects to satisfy its obligations under this chapter through a TMA,
9 the affected employer and the TMA shall notify the Director in writing that the TMA is authorized to
10 submit a CTR program, revised CTR program, and/or program report on behalf of the affected
11 employer.

12 B. Standards and Requirements. CTR documents submitted by TMAs are subject to the
13 same standards and requirements, including deadlines, that apply to documents submitted by individual
14 affected employers. In addition to describing program elements that are common to its members, CTR
15 documents submitted by a TMA shall describe specific program measures that are unique to individual
16 members' worksites and include performance data for each affected employer's worksite consistent with
17 the requirements for program reports under Section 25.02.050.

18 C. Affected Employer Responsibility for CTR Compliance. Each affected employer is
19 responsible for meeting the requirements of this chapter regardless of the affected employer's
20 participation in a TMA. Each program revision shall specify the affected employer to which it applies.

21 **Section 8.** Section 25.02.070 of the Seattle Municipal Code, which was last amended by
22 Ordinance 119056, is amended as follows:
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25.02.070 Exemptions from CTR Requirements and adjustments to CTR calculations

A. Exemptions from Requirement to Implement CTR Program.

1. Worksite Exemptions. An affected employer that has adopted a CTR program pursuant to Section 25.02.040 may, at any time, submit a request to the Director for an exemption from the requirement to implement its CTR program or from specific elements contained therein, for one or more of its worksites. The affected employer's request must cite the specific CTR program requirements from which it is seeking an exemption and demonstrate that:

a. due to the characteristics of the affected employer's business, workforce, or location, complying with the requirements of this chapter would cause undue hardship, such as bankruptcy; or

b. the affected employer is unable for economic reasons to implement any measures that

2. Employee Exemptions.

a. Request for Exemption.

(i) An affected employer may request that the Director exempt the following types of employees from a worksite's CTR program:

(a) Specific employees or groups of employees who are required to drive alone to work as a condition of employment; and

(b) employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts.

(ii) Affected employers requesting employee exemptions must do so at least thirty (30) days prior to conducting the surveys required by Section 25.02.050 and shall provide credible documentation indicating the

number of employees who qualify for an employee exemption under this subsection.

3. Duration of Exemption. The Director shall review annually all affected employers receiving any exemption and shall determine if the exemption will remain in effect during the following program year. In making this determination, the Director may require the affected employer to provide additional information related to the economic hardship or other factors on which the exemption was based.

C. Adjustments to the Calculation of Affected Employees.

1. Request for Adjustment.

a. An affected employer may request that the Director, in determining whether the affected employer has met its goals and targets for purposes of the biannual survey, exclude the following types of employees in calculating the total number of affected employees:

- (i) employees who are required to use the vehicles they drive to work during the workday for work purposes; and
- (ii) full-time employees who work variable shifts that sometimes begin between six (6:00) a.m. to nine (9:00) a.m. and sometimes begin outside of that time period, but not those employees who rotate shifts together as part of a group.

2. Deadline to Request Adjustments. Affected employers requesting adjustments to the calculation of affected employees must do so at least thirty (30) days prior to conducting the survey required by Section 25.02.050. The affected employer shall provide credible documentation indicating how many employees qualify to be excluded from the calculation of affected employees pursuant to this subsection and must demonstrate that no reasonable alternative commute trip reduction program can be developed for these employees

3. Effect of Adjustment. Adjustments to the calculation of affected employees approved pursuant to this subsection are solely for the purpose of determining affected employer progress toward achieving the CTR goals and do not change whether the affected employer is subject to this chapter.

D. Director's Decision on Requests for Exemptions and Adjustments.

1. Requirements for Requests. All requests made by affected employers pursuant to this section shall be addressed to the Director in writing and shall include the information required for the particular type of exemption or adjustment being sought.

2. Standards for Granting Exemptions and Adjustments. The Director shall grant requests for exemptions and adjustments that are supported by credible documentation and meet the applicable criteria in this section. Within thirty (30) days of receiving a request from an affected employer pursuant to this section, the Director shall issue a decision granting or denying the request and mail a copy of the decision to the affected employer.

Section 9. Section 25.02.080 of the Seattle Municipal Code, which was last amended by Ordinance 119056, is amended as follows:

25.02.080 Appeal of Director's (~~final~~) Decision.

A. Appealable Decisions. An affected employer that is aggrieved by any of the following decisions of the Director may appeal the decision to the Office of the Hearing Examiner pursuant to this section:

1. Decisions rejecting a CTR program pursuant to Section 25.02.040.
2. Decisions rejecting a CTR program report pursuant to Section 25.02.050 for failure to include the required performance data.

3. Decisions approving a CTR program report pursuant to Section 25.02.050, but finding that the affected employer has not met its goals and targets and is therefore required to submit a revised CTR program pursuant to Section 25.02.050 and 25.02.055.

4. Decisions rejecting a revised CTR program pursuant to Section 25.02.055.

5. Decisions denying a request for an exemption or adjustment under Section 25.02.070.

B. Effect of Appeal or Failure to Appeal. If a Director's decision is timely appealed to the Hearing Examiner, any deadline imposed by that decision for submitting an initial or revised CTR program or report is tolled pending the outcome of the appeal. If the Hearing Examiner affirms the Director's decision, the Hearing Examiner shall set a new deadline for submitting an initial or revised CTR program or report. If the affected employer does not appeal a Director's decision to the Hearing Examiner, the Director's decision is final for purposes of enforcement action under Section 25.02.090.

C. Hearing Examiner Appeal Procedures. Except as otherwise provided by this section, appeals of Director's decisions pursuant to this chapter are governed by the Hearing Examiner's rules for contested cases adopted pursuant to Chapter 3.02 SMC.

1. Standing. Only an affected employer subject to a decision of the Director may appeal that decision to the Hearing Examiner.

2. Filing Requirements.

a. Appeals shall be filed with the Hearing Examiner no later than five (5:00) p.m. on the fourteenth calendar day following the date of the Director's decision. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period extends until five (5:00) p.m. on the next business day. The appeal shall be accompanied by payment of the applicable filing fee set forth in Section 3.02.125, Hearing Examiner filing fees.

b. In form and content, the appeal shall conform to the rules of the Hearing Examiner adopted pursuant to Chapter 3.02 SMC.

3. Hearing and Notice of Hearing. The Hearing Examiner shall schedule a hearing and provide notice of the hearing at least twenty (20) days prior to the scheduled hearing date.

D. Hearing-- Scope of Review. The hearing shall be conducted de novo and in accordance with the Hearing Examiner's rules of procedure. The Hearing Examiner shall consider only those issues raised in the notice of appeal and relating to the requirements of this chapter.

E. Hearing Examiner's Decision. Within thirty (30) days after the hearing, the Hearing Examiner shall issue a written decision that shall include findings of fact and conclusions of law in support of the decision. The Hearing Examiner may affirm, reverse, remand, or modify the Director's decision. The Director and the affected employer that appealed the Director's decision shall be bound by the terms and conditions of the Hearing Examiner's decision unless the decision is reversed or remanded on judicial review.

F. Notice of Hearing Examiner Decision. On the day the Hearing Examiner issues a decision, the Hearing Examiner shall mail the decision to the Director and to the affected employer that appealed.

Section 10. Section 25.02.090 of the Seattle Municipal Code, which was last amended by Ordinance 119056, is amended as follows:

25.02.090 Violation -- Penalties.

A. Civil Penalties.

1. Amount of Penalty. A person who commits any of the violations enumerated in this section is subject to a cumulative civil penalty in an amount not to exceed two hundred and fifty (\$250) dollars for each day that the violation continues, beginning on the date for compliance established by a notice of violation issued pursuant to this section.

2. Collection of Penalty.

a. If the violation relates to a requirement imposed by a decision of the Director, and that decision has been appealed to the Hearing Examiner pursuant to Section 25.02.080, no action for civil penalties shall be commenced and no civil penalties may be collected or imposed until the appeal has been resolved

b. The penalty imposed by this section shall be collected by civil action brought in the name of the City. The Director shall notify the City Attorney in writing of the name of any employer subject to a penalty, and the City Attorney shall, with the assistance of the Director, take appropriate action to collect the penalty.

3. Burden of Proof. In any civil action for a penalty, the City shall have the burden of proving by a preponderance of the evidence that the violation enumerated in a notice of violation exists or existed. An unappealed decision of the Director or an unappealed decision of the Hearing Examiner finding that a CTR program or report fails to comply with this chapter is conclusive evidence of a violation.

B. Violations.

1. Violations Subject to Civil Penalties.

a. Failure to comply with the requirements of Section 25.02.040 for initial CTR programs; the requirements of Section 25.02.050 for CTR program reports, or the requirements of Section 25.02.055 for revised CTR programs

b. Failure to make a good faith effort as defined in RCW 0.94.534(2) and this chapter.

2. Violations Not Subject to Penalties.

1 a. Violations resulting from an inability to reach agreement with a certified
2 collective bargaining agent under applicable laws where the issue was raised by an employer and
3 pursued in good faith. A unionized employer shall be presumed to act in good faith if it:

4 (i) Proposes to a recognized union any provision of the employer's CTR
5 program that is subject to bargaining as defined by the National Labor Relations Act; and

6 (ii) Advises the union that compliance with the CTR program approved by
7 the City is required by the Washington Clean Air Act (RCW 70.94.521-.555), and advises the union that
8 the proposal being made is necessary for compliance with the CTR program

9 b. Failure to achieve SOV or VMT reduction goals so long as an affected
10 employer is working in good faith to meet such goals.

11 C. Notice of Violation.

12 1. Issuance and Service. If the Director determines that an affected employer has
13 failed to comply with the requirements of this chapter, the Director may issue a notice of violation and
14 send it by first class mail addressed to the affected employer's chief executive officer or highest-ranking
15 official at the worksite.

16 2. Contents. The notice of violation shall contain:

17 a. The name and address of the affected employer;

18 b. A statement that the Director has found the affected employer to have
19 committed a violation subject to civil penalty pursuant to this chapter, with a description of the specific
20 requirements found to have been violated.

21 c. A statement of the corrective action required to cure the violation and the
22 date by which such action must be taken in order to avoid the imposition of civil penalties by the
23 Director.

3. Legal Effect. The Director may not seek civil penalties pursuant to this section unless a notice of violation has been issued, but the notice of violation is not evidence of the violation in any civil action to collect such penalties.

D. ~~((C.))~~ Criminal Penalties. An employer who submits a report pursuant to this chapter is subject to state and local laws making it a crime to submit false information.

Section 11. Section 25.02.100 of the Seattle Municipal Code, which was last amended by Ordinance 119056, is amended as follows:

25.02.100 Administration and implementation.

A. Responsible Agency. The Department is authorized to administer and implement this chapter.

B. The Director of the Department is authorized to:

1. Promulgate administrative rules to implement this chapter and to implement the guidelines developed by the Washington CTR Board pursuant to RCW 70.94.537.

2. Develop and recommend to the City Council proposed amendments to the City's CTR plan.

3. Coordinate with other jurisdictions to improve consistency in the development and implementation of CTR plans.

4. Provide technical assistance to affected employers within the City of Seattle to assist them in complying with the requirements of this chapter and to further their SOV and VMT reduction goals.

5. Implement a CTR plan for City of Seattle employees.

6. Provide information on the City of Seattle CTR Plan, in addition to reports and other required information, to the state CTR board.

7. Carry out all functions authorized by this chapter, including but not limited to reviewing affected employer CTR programs and reports and enforcing the requirements of this chapter.

Section 12. Section 25.02.060 of the Seattle Municipal Code, which was last amended by Ordinance 119056, is repealed.

Section 13. A new Section 25.02.110 is adopted to read as follows:

25.02.110. Savings Clause.

The amendment or repeal of any section of Chapter 25.02 SMC shall not affect any right or duty accrued or any proceeding commenced under the provisions of such amended or repealed sections which were in existence on the effective date of the amended or repealed sections of chapter 25.02 SMC.

Section 14. Section 3.02.125 of the Seattle Municipal Code, which was last amended by Ordinance 122564, is amended as follows:

3.02.125 Hearing Examiner filing fees.

A. Filing fees for hearings before the City Hearing Examiner are as follows:

Basis for Hearing	Fee
Admission Tax Deficiency (Ch. 5.40)	\$50
Admission Tax, Revocation of Exemption (Sec. 5.40.085)	No fee
Ballard Avenue Landmark District (Ch. 25.16)	50
Business License Tax Deficiency (Ch. 5.45)	50
Cable Television Ordinance (Ch. 21.60)	No fee
Columbia City Landmark District (Ch. 25.20)	50
Commercial Parking Tax Deficiency (Ch. 5.35)	50
Commute Trip Reduction (CTR) (Ch. 25.02)	50
Design Decision in Multiple Residence - Mixed Density Zone (Ch. 24.38)	50

1	Employee Hours Tax (Ch. 5.37)	50
2	Fair Employment Practices Ordinance (Ch. 14.04)	No fee
3	Floating Home Moorages (Ch. 7.20)	50
4	/petitioner; maximum fee	150
5	Gambling Tax Deficiency (Ch. 5.52).	50
6	Grading Ordinance (Title 22, Subtitle VIII)	50
7	Harvard/Belmont Landmark District (Ch. 25.22)	50
8	Housing Code (Ch. 22.206)	50
9	Land Use Code Enforcement (Ch. 23.90)	50
10	Landmark Preservation Controls and Incentives (Sec. 25.12.530)	No fee
11	Landmarks Preservation (Sec. 25.12.740 and Sec. 25.12.835)	50
12	License Code (Title 6, Subtitle I)	50
13	Master Use Permit (Ch. 23.76)	50
14	Noise Ordinance (Ch. 25.08)	50
15	Open Housing Ordinance (Ch. 14.08)	No fee
16	Pike Place Market Historical District (Ch. 25.24)	50
17	Pioneer Square Minimum Maintenance Ordinance (Ch. 25.28, Subchapter II)	50
18	Planned Unit Development (Ch. 24.66)	50
19	Plumbing Code (Ch. 20.16, Uniform Plumbing Code, Ord. 116594)	50
20	Property Tax Exemption, Cancellation of Exemption (Ch. 5.72)	50
21	Radiofrequency Radiation Ordinance (Ch. 25.10)	50
22	Refund Anticipation Loan (Ch. 7.26)	5
23		
24		

1	Relocation Assistance (Ch. 20.84)	No fee
2	Seizure of Property; Controlled Substances (RCW 69.50.505(e))	No fee
3	Special Review Districts (Ch. 23.66)	50
4	Square Footage Tax (Ch. 5.46)	50
5	State Environmental Policy Act (SEPA) (when not a Master Use Permit component) (Ch. 25.04)	50
6	Utility tax (Ch. 5.48)	50
7	Zoning Map Amendments (Rezoning)(Ch. 23.34)	No fee
8	Zoning Rulings and Interpretations (Ch. 23.88)	50

B. Filing fees are nonrefundable unless otherwise provided in this Code. The City Hearing Examiner may waive a fee if its assessment will cause financial hardship to the appellant.

C. There is no fee for hearing appeals from an administrative assessment or an order under Sections 6.212.280 and 6.212.290.

Section 15. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 20__, and signed by me in open session in authentication of its passage this ____ day of _____, 20__.

President _____ of the City Council

Approved by me this ____ day of _____, 20__.

Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 20__.

City Clerk

(Seal)

Attachment A: 2008 City of Seattle COMMUTE TRIP REDUCTION (CTR) BASIC PLAN